IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 251 of 1999

in

SPECIAL CIVIL APPLICATIONNo 6039 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MUNICIPAL COMMISSIONER

Versus

VIJODBHAI ALIAS VINUBHAI MAGANBHAI

Appearance:

MR MG NAGARKAR for Appellant

MR KR RAVAL for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE A.K.TRIVEDI

Date of decision: 16/08/2000

ORAL JUDGEMENT (Per: R.K.Abichandani,J.)

Rule. Learned Counsel appearing for the respondent waives service of rule.

2. So far as the direction of reinstating the respondent given by the learned Single Judge is concerned, that has not been disputed because after his acquittal in appeal, the respondent became entitled to be reinstated. However, as regards the direction for giving backwages and other consequential benefits, it is submitted that there has not been any decision by the competent authority on the question as to how the period during which the respondent was under suspension should be treated. The respondent was tried for the offences under the Prevention of Corruption Act and on his conviction, show cause notice was given to him as to why he should not be dismissed. However, since he was later acquitted in appeal, the show cause notice which was based on his conviction could not be sustained and that is why, the direction for reinstatement was given.

3. Admittedly, there has not been any decision on the question as to how the period of suspension should be treated. On this aspect, learned Counsel appearing for both the sides submitted that the competent authority may be allowed to take a decision, after hearing the respondent on the question, as to how the period of suspension of the respondent should be treated under the Rules and pass necessary orders on the basis of which the question of payment of backwages as regards that period shall be decided. It is accordingly directed on the basis of the consensus expressed by the learned Counsel appearing for both the sides that the competent authority of the appellant-Corporation shall take a decision on the question as to how the period of suspension of the respondent should be treated as per the Rules and take a decision in accordance with law after hearing the respondent.

Subject to the aforesaid directions, the appeal is dismissed with no order as to costs.

(R.K.Abichandani,J.)

(A.K.Trivedi,J.)

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